

DEBBIE K. HOUSLEY,

Plaintiff,

vs.

JO ANNE B. BARNHART,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

CASE NO. 2:05-0089
JUDGE NIXON/KNOWLES

This matter is before the Court upon Defendant’s “Motion to Dismiss” (Docket No. 5). Defendant seeks to dismiss this in forma pauperis Social Security appeal. Docket No. 5. Defendant argues that Plaintiff has failed to serve the Attorney General of the United States or the United States Attorney for the Middle District of Tennessee, within the time period required by Fed. R. Civ. P. 4(m). *Id.*

It appears that the Clerk issued three summonses in this case: (1) to the General Counsel of the Social Security Administration, (2) to the Attorney General of the United States, and (3) to the Nashville Office of the Social Security Administration. Insofar as the record reflects, none of these summonses has ever been served.

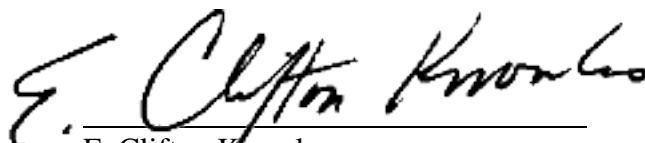
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(d) The officers of the court shall issue and serve all process, and perform all duties in such cases. . . .

It does not appear from the record that the Clerk ever delivered the summonses to the U.S. Marshal's Service so that they could be appropriately served upon Defendant.

For the foregoing reasons, the undersigned recommends that Defendant's "Motion to Dismiss" (Docket No. 5) be DENIED, that the Clerk be directed to issue new summonses, and that the Clerk deliver the summonses to the U.S. Marshal Service for appropriate service upon Defendant.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from receipt of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any response to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed. 2d 435 (1985), *reh'g denied*, 474 U.S. 1111 (1986).



E. Clifton Knowles
United States Magistrate Judge